

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

**B.F. HICKS, GARY BOREN
and KATHY BOREN**

v.

SCOTT ANDREWS, ET AL.

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Civil Action No. 5:23cv81-RWS-JBB

ORDER

The above-entitled and numbered civil action was referred to United States Magistrate Judge J. Boone Baxter pursuant to 28 U.S.C. § 636. Before the Court is the November 21, 2024 Report and Recommendation of the Magistrate Judge (Docket No. 67) which contains his proposed findings of fact and recommendations for the disposition of Stockyard Solar Project, LLC and Saddle House Solar Project, LLC's Motion to Dismiss Second Amended Complaint for Failure to State a Claim (Docket No. 54). The Magistrate Judge recommends Defendants' motion be granted in part and denied in part. Specifically, the Magistrate Judge recommends the motion be granted as to Plaintiffs' strict liability nuisance claim but denied as to Plaintiffs' claims for negligent nuisance, intentional nuisance, injunctive relief to prevent a prospective nuisance, Texas Water Code violations, and trespass.

No objections to the Report and Recommendation were filed. Because no objections have been filed, any aggrieved party is barred from *de novo* review by the District Court of the Magistrate Judge's findings, conclusions, and recommendations. Moreover, except upon grounds of plain error, an aggrieved party is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

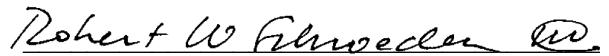
The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report and Recommendation (Docket No. 67) is **ADOPTED** by the Court. It is further

ORDERED that Stockyard Solar Project, LLC and Saddle House Solar Project, LLC's Motion to Dismiss Second Amended Complaint for Failure to State a Claim (Docket No. 54) is **GRANTED-IN-PART and DENIED-IN-PART**. Defendants' motion is granted as to Plaintiffs' strict liability nuisance claim and denied as to Plaintiffs' claims for negligent nuisance, intentional nuisance, injunctive relief to prevent a prospective nuisance, Texas Water Code violations, and trespass. It is further

ORDERED that Plaintiffs' strict liability nuisance claim is dismissed with prejudice.

So ORDERED and SIGNED this 2nd day of January, 2025.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE